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FISCAL IMPACT STATEMENT

LS 7079

BILL NUMBER: HB 1181

NOTE PREPARED: Jan 14, 2010

BILL AMENDED: Jan 13, 2010

SUBJECT: Referendum on Retaining Township Trustee and Board.

FIRST AUTHOR: Rep. Crawford

BILL STATUS: As Passed House

FIRST SPONSOR: Sen. Kenley

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: Local

Summary of Legislation: (Amended) This bill has the following provisions:

Public Referendum to Retain Townships: The bill requires a public question to be placed on the November 2010 general election ballot in each township regarding whether the voters want to retain a township trustee and township board. It provides that if a majority of voters in a township do not approve the public question, the powers and duties of the trustee and township board are transferred to the county on January 1, 2012.

Township Government Not Retained: The bill provides that, except as specifically provided by law, if a majority of voters in a township do not approve the public question:

- (1) the county executive has the powers and duties of the township trustee in that township;
- (2) the county legislative body has the legislative powers and duties of the township board in that township; and
- (3) the county fiscal body has the fiscal powers and duties of the township board in that township.

It provides that a transfer of powers and duties between a township and the county results in the transfer of that township's property, equipment, personnel, records, rights, contracts, and indebtedness.

Township Assistance Fund: It specifies that earnings on the money deposited in a township assistance fund established by a county shall be deposited in the fund.

Fire Protection: It provides that if a majority of voters in a township do not approve the public question, the county is responsible for providing fire protection in that township and for administering the township fire

department.

Property Tax Rates and Levies, and Township Budgets: It provides that the property tax rates, property tax levies, and budget of the township shall be calculated and administered by the county separately from the county's property tax rates, property tax levies, and budget, and those property tax rates, property tax levies, and budgets shall be considered property tax rates, property tax levies, and budgets of the township for purposes of statutes concerning budgets and the imposition of property tax rates and levies.

Indebtedness: The bill specifies that any indebtedness and any lease rental obligation incurred before January 1, 2012, by such a township become an obligation of the county in which the township is located and shall be assumed, defeased, paid, or refunded by the county. It provides that the county may levy property taxes to pay the indebtedness or lease rental obligations only in the area of the township that incurred the debt.

Marion County Small Claims Court: It provides that if a majority of voters in a township in Marion County do not approve the public question, the responsibilities of the township trustee and township board concerning township small claims court are transferred to the: (1) mayor of the consolidated city; (2) city-county council of the consolidated city; and (3) clerk of the circuit court of the county containing the consolidated city.

School Townships: It provides that if a majority of voters in a township do not approve the public question: (1) any school township in that township is required to reorganize not later than July 1, 2011; and (2) the governing body of the school township must hold public hearings to discuss the methods of reorganization available to the school township and seek testimony from the public, community and business leaders, teachers, administrators, and other school employees concerning the appropriate form for the reorganization.

Nepotism: The bill prohibits a relative of a township officer or employee from being employed by the township in a position that would put the relative in a direct supervisory or subordinate relationship with the officer or employee. It provides that a township employee who marries another township employee may not continue in the same position if the employee would have a direct supervisory or subordinate relationship with the employee's spouse. It specifies that until January 1, 2012, a township employee is not required by these provisions to be terminated or reassigned from any position held by that individual before July 1, 2010.

Effective Date: July 1, 2010.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) The bill has indeterminate fiscal impact on county government. If the voters of a township do not vote to retain the township government, consisting of a township trustee and a three-member township board, on January 1, 2012, the duties and powers for the township government transfer to the county. The bill does not delete or diminish the responsibilities and duties currently assigned in statute to township trustees, township boards, township small claims courts, or other entities, but rather transfers the responsibilities to the county. If a county can perform or contract for the performance of the duties and administrative functions of the townships or other consolidating entity more efficiently, cost savings will result.

Additionally, the bill could increase costs to townships that have to make changes in personnel due to

familial relationships or marriages.

Background & Additional Information - Township government will be dissolved where the voters have voted not to retain township government. In a township dissolved by the voters, the functions, duties and responsibilities of the township trustees transfer to the township executive, and the functions, duties and responsibilities of the township board transfer to the county commission or county council. [The bill does not indicate if duties of a township assessor in a dissolved township, if any, are transferred.] The assets, property rights, equipment, records, personnel, and contracts are to transfer to the county. A dissolved township would not be permitted to enter into a contract that extends beyond December 31, 2011, unless it is approved by the county fiscal body.

If the township voters vote in favor of the referendum and township government is retained, the elected township trustee and township board exercise their duties and powers as required by current statute.

The number of townships per county varies between 4 and 21, with the largest number of counties having 12 townships, and not all townships in the county may be dissolved depending on the vote of the voters of each township. The county will incur additional expenses to separately calculate, impose, adopt, and administer property tax rates, property tax levies, and budgets for the township and the county, if any township in the county is dissolved. The following actions are to occur to abolish township government.

Township Assistance: The county executive will appoint a township assistance administrator in each dissolved township. The administrator has the same powers and reporting requirements concerning township assistance as a township trustee, and the same standards and requirements apply to township assistance recipients in a dissolved township. The township assistance administrator is supervised by the county executive. The township assistance administrator will estimate the amount necessary to provide township assistance for the ensuing year. The county fiscal body will adopt the county budget with a uniform tax rate throughout the township to meet the estimated cost of township assistance. Also, the administrator is to propose standards for issuance of township assistance which are adopted by the county legislative body to become effective.

Any application for township assistance for which a final decision has not been entered by December 31, 2011, will be treated as a new application. Any application granted but not disbursed prior to January 1, 2012, is to be disbursed and administered in accordance with the township's grant of township assistance.

For the distribution of biologicals, the county assumes the rights, duties, and responsibilities, and the township assistance administrator has all the rights, duties, and responsibilities as the township trustee.

Other Services: The county officer or employee or a designee responsible for the destruction of detrimental plants will be a member of the weed control board. The duties concerning destruction of detrimental plants and the costs incurred, including emergency funding, transfers to the county from a dissolved township. The county budget will include an appropriation sufficient for the county executive to comply with statutes concerning detrimental plants in the township. The county is conferred and imposed with the powers and duties concerning cemeteries and parks and recreation in each dissolved township. A reference in the cemetery law statute to a trustee will mean the officer or employee of the county responsible for administering cemetery laws. Also, in a dissolved township, the officer or employee of the county will assume the township responsibilities for partition fences. The legislative powers and duties are transferred to the legislative body of the county, and the township trustee's powers and duties transfer to the county

concerning emergency medical services. The responsibility and obligations of a dissolved township for public libraries, library districts, or a contract for library services is terminated and assumed by the county on January 1, 2012. A member of a library board is appointed by the legislative body of a county in a dissolved township.

Fire Protection Services: The county is responsible for providing fire protection services and administering the township fire department in a dissolved township. In regards to provision of fire protection services, the executive powers and duties are imposed on the county executive, the legislative duties and powers transfer to the county legislative body, and the county fiscal body is granted or imposed with the fiscal responsibilities. The powers and duties of a township concerning volunteer fire departments and fire protection territories transfer to the county.

Township firefighter and police officer pension fund boards would dissolve on January 1, 2012, and the powers, duties, and responsibilities would transfer to the county board. Members of a 1937 Fund remains a member of the 1937 Fund, and members of the 1977 Fund remain members of the 1977 Fund.

Indebtedness or Lease Rental Obligations: Any indebtedness or lease rental obligation of a dissolved township is to be assumed, defeased, paid, or refunded by the county. However, the county may not assume all or part of the debt that will exceed the limits on the amount of indebtedness the county may incur.

School Township: A school township will incur additional costs to hold public hearings to discuss methods of reorganizing and to develop a plan as required under current state statute concerning organization of school corporations. [There are three school townships in Indiana.]

Marion County Township Fire Departments: If a dissolved township is in Marion County and has not already consolidated its fire department, the township fire department is consolidated with the fire department of the consolidated city.

Marion County Small Claims Courts: The judges of the small claims court will continue to be elected to a four-year term of office. The executive of the consolidated city will provide courtrooms and offices, and furnish supplies, furniture, and equipment and provide maintenance and upkeep.

Judge Salaries: Judge salaries are to be set and paid by the city-county council. A judge will set the salary of as many small claims court clerks as are necessary to operate efficiently and adequately serve the citizens, with the approval of the city-county council. Current law and the bill set a floor of \$5,600 for clerk salaries.

Explanation of Local Revenues: *Property Tax Levies:* Property tax levy limits do not apply to a county to pay or fund any indebtedness assumed, defeased, paid, or refunded due to a transfer of duties from a dissolved township to the county.

Distributive Shares: Shares of state or local taxes that are distributed to dissolved townships would be reduced to zero and the shares would transfer to the county.

Indebtedness: A special taxing unit is established to levy property taxes to pay indebtedness that is not assumed by the county.

Township Assistance Fund: A township assistance fund will be established for each dissolved township by

the county. The fund is raised by a property tax levy collected by the county within the township. Money in the fund at the end of the year does not revert to the county general fund, and earnings of the fund will be deposited in the fund.

Other Funds: Township firefighting funds and firefighting cumulative funds would be administered by the county in a dissolved township. The powers and duties concerning the cumulative township vehicle and building fund transfers to the county. The cemetery fund for a dissolved township will be the county fund.

Marion County Small Claims Court Fees: Court fees will remain unchanged, but will be paid to the county general fund, township small claims courts account. Fees collected for court administration and judicial salaries are to be deposited in the county general fund, small claims courts account. After December 31, 2011, 40% of the court administration fees are to be used for the operation of small claims courts. In 2008, Marion County small claims courts generated a total of \$5.07 M, including \$1.6 M in state funds, \$101,000 in county funds, and \$3.33 M in local funds. The local funds would instead go to the county under the bill.

State Agencies Affected:

Local Agencies Affected: Counties; Townships.

Information Sources:

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